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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,089	02/06/2004	Arthur H. Bunn	27726/95401	7146

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BARNES & THORNBURG LLP  
P.O. BOX 2786  
CHICAGO, IL 60690-2786

EXAMINER

NICOLAS, FREDERICK C

ART UNIT PAPER NUMBER

3754

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/774,089

Applicant(s)

BUNN ET AL.

Examiner

Frederick C. Nicolas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-12 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/6/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1,9,12,18 are objected to because of the following informalities: the claimed limitation "beverage" as recited in claim 1, lines 10 and 14, claim 9, line 2, claim 12, lines 7,9, and in claim 18, lines 9,13 and 17 should be --the beverage-- to prevent double inclusion throughout the noted claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,6-12,15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Krimmel et al. 5,497,917.

Krimmel et al. disclose a beverage container (20) for retaining a volume of beverage, which comprises a wall defining a cavity (26) in which beverage is contained, a rim (please note: the rim is the tip end of the container) defined along an upper edge of the wall the rim defining a mouth as seen in Figure 2, a lid (10) at least partially extending over the mouth, valve structure (16) on the lid defining a valve port (60) extending through the lid for communicating with the cavity of the container, a valve grommet (44) positionable in the valve port, the grommet defining an aperture communicating with the valve port for facilitating flow of beverage through the aperture and valve port into the cavity, a flexible tongue (130) extending from the grommet and

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at least partially extending into the valve port and movable relative to the valve port for facilitating flow of beverage into the cavity and resisting reverse passage of beverage therethrough (col. 6, ll. 11-19), the grommet further comprises a flange (48) extending around the grommet for engaging the valve port, the grommet being formed of a flexible material for flexible engagement with the valve port in the lid and for flexible disengagement therefrom to facilitate sealing of the valve port and removal and replacement to facilitate cleaning of the lid as seen in Figure 4, a recess (124), a reservoir (126). The device shown by Krimmel et al. will perform the method recited in claim 18 during normal operational use of the device.

***Allowable Subject Matter***

4. Claims 4-5,13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


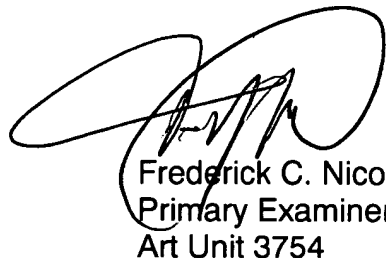
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doron et al. 6,805,266, Geroult et al. 6,216,754, Collins 5,037,015, Patel 5,653,362 and Nybakke 6,648,183 disclose other types of beverage container.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN  
September 6, 2006



Frederick C. Nicolas  
Primary Examiner  
Art Unit 3754